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## BOARD OF COUNTY COMMISSIONERS

YELLOWSTONE COUNTY, MONTANA

Tuesday, April 29, 2014

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SUBJECT: Zone Change #650 – 3333 N Frontage Road  
THROUGH: Candi Millar, AICP, Planning Director  
FROM: Nicole Cromwell, AICP, Zoning Coordinator

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### REQUEST

The applicant is requesting a zone change from Agriculture –Open Space (A-1) to Controlled Industrial (CI) on Tract 2 of C/S 1734, a 23.27 acre parcel of land. The parcel has 1 single family dwelling and is used for agricultural purposes and generally located at 3333 N Frontage Road. A pre-application neighborhood meeting was held on February 7, 2014 at the Tolliver Law Firm at 1004 Division Street in Billings, MT. The Zoning Commission conducted a public hearing on April 16, 2014, and is forwarding a recommendation of approval on a 4-0 vote.

### APPLICATION DATA

OWNER: Terry Seiffert  
AGENT: None  
LEGAL DESCRIPTION: Tract 2 C/S 1734  
ADDRESS: 3333 N Frontage Road  
SIZE OF PARCEL: 23.27 acres  
EXISTING LAND USE: Single family home and agricultural land  
PROPOSED LAND USE: same with a clothing warehouse and distribution center  
EXISTING ZONING: A-1  
PROPOSED ZONING: CI

### APPLICABLE ZONING HISTORY

**Subject Property – None**

**Surrounding Properties** – There have been 9 similar zone changes in this area of Lockwood since 1974. All have been approved. Most of these zone changes were from A-1 zoning to Heavy Industrial (HI) zoning.

### CONCURRENT APPLICATIONS

None

### SURROUNDING LAND USE & ZONING

NORTH: Zoning: HI  
Land Use: Agricultural  
SOUTH: Zoning: R-96 & RMH – south of I-90/I-94 interchange  
Land Use: Single family dwellings

EAST:   Zoning:   None  
          Land Use: Agricultural  
WEST:   Zoning:   HI  
          Land Use: Agricultural

## **REASONS**

The subject property is located at the dead end of North Frontage Road in Lockwood just north of the I-90 and I-94 interchange. The property is on the boundary of the County 4.5-mile jurisdictional area and is bordered on the north and west by Heavy Industrial (HI) zoning and on the south by the interstate interchange. To the east is un-zoned property. There are several industrial uses to the west along North Frontage Road including Peterbilt, 2 truck repair shops, a truck wrecking yard, and a taxidermy business. To the north and west along Coulson Road are large gravel mining operations with crushers and asphalt batch plants. Most of the land immediately adjacent to the property is used for agriculture either as pasture or irrigated land. North Frontage Road is paved up to the entrance gates of the property. The surrounding properties in the zoning jurisdiction were changed from A-1 zoning to HI or Highway Commercial (HC) zoning in the 1970s although there were additional zone changes in the 1990s.

All the adjacent streets are considered local streets and North Frontage Road would be considered a commercial local street for traffic purposes. No traffic counts are available for these streets. The posted speed limit on all these streets is 25 mph. Johnson Lane to the west is considered an arterial street and would provide access to the interstate system for trucks and other traffic generated by the proposed use. The property is not within the 5-year limits of annexation area for the City of Billings, and not within any Long Range Urban Planning Area on the City Limits of Annexation Map. The property is adjacent to agricultural uses to the west, north and east. The applicant conducted a pre-application meeting and the meeting notes are attached to this report. The Planning Division received no comments from County agencies or the surrounding property owners. The Lockwood Water and Sewer District does not extend to this section of North Frontage Road. All water and sewer systems will need to be provided on-site.

The County adopted the Lockwood Neighborhood Plan for this area in August 2006. The land use for this area was not predicted to change significantly. There are several commercial businesses in the area already and additional area may catalyze future development. The adjacent HI zone is compatible with the proposed CI zoning. Public water and sewer is not available to these lots so uses will be limited to those not requiring public utilities. The adjacent agricultural uses should experience impacts from the change of zoning and new use since it will have only 1 access from North Frontage Road. Any new commercial development will need to meet the zoning code standards for landscaping.

Uses allowed in the CI zone could have an impact on traffic. The Planning staff must consider all potential uses on the subject property including retail, commercial office space, restaurants (with or without alcohol service), and industrial uses. If the property were developed for retail uses, then new traffic generated would likely be increased beyond what is anticipated with the proposed clothing warehouse and distribution center. A 5,000 square foot restaurant would generate approximately 200 new vehicle trips per day. A more intense use under the proposed zoning would require additional analysis of traffic circulation at the intersection of North Frontage Road and Johnson Lane to the west. The current zoning allows single family dwellings and all agricultural uses. The County does not have traffic counts for this section of North

Frontage Road but the street likely has a pre-dominance of heavy truck traffic given the uses to the west. This traffic is already blended with the local residential and agricultural traffic. Planning staff did not receive any comment from County Public Works regarding traffic generated by the proposed use.

A neighborhood meeting was conducted by the applicant on February 7, 2014, at the Tolliver Law Offices on Division Street in Billings. Mr. Ken Tolliver, Mr. Terry Seiffert and Mr. Cleve Lehman attended the meeting. Mr. Lehman is a surrounding property owner. Mr. Tolliver and Mr. Seiffert are owners or representatives for the zone change application. The meeting notes indicate Mr. Lehman is in support of the zone change. The minutes of the meeting are included as Attachment B. The Planning Division did not receive any telephone calls or written comments concerning the application.

Planning staff reviewed the application and forwarded a recommendation of approval for the proposed zone change based on the 11 criteria for zone changes. The Zoning Commission concurred with the staff recommendation. The property is located near the boundary of the zoning jurisdiction at the dead end of North Frontage Road. The surrounding zoning is Heavy Industrial although agricultural uses are prevalent. North Frontage Road has a pre-dominance of heavy truck traffic due to the uses to the west of this property. The Lockwood Community Plan did not have a specific plan for this area other than the existing zoning and uses. The 2008 Growth Policy encourages predictable land uses in or near neighborhoods. The uses available in the CI zone are limited without the provision of public water and sewer services.

The Zoning Commission concurred with the staff recommendation based on the testimony received and the 11 criteria for zone changes.

## **RECOMMENDATION**

The Zoning Commission voted 4-0 to recommend approval of Zone Change #650.

## **ZONING COMMISSION PUBLIC HEARING AND DISCUSSION**

The Zoning Commission conducted a public hearing on this application on April 16, 2014. The applicant, Terry Seiffert, and the agent for the prospective buyer, Ken Tolliver, were in attendance to testify in favor of the proposed zone change. No other testimony was received at the public hearing.

Chair Dennis Cook closed the public hearing. Member Al Littler made a motion to recommend approval to the County Commissioners and it was seconded by member Ole Shafer. The motion carried with a 4-0 vote.

## **RECOMMENDATION**

The Zoning Commission recommends approval of Zone Change #650 on a 4-0 vote.

## **PROPOSED COUNTY COMMISSION DETERMINATIONS**

The Board of County Commissioners, prior to any recommendation, shall consider the following:

1. *Is the new zoning designed in accordance with the Yellowstone County and City of Billings 2008 Growth Policy?*

The proposed zoning does comply with the following goals of the Yellowstone County and City of Billings 2008 Growth Policy and area plans:

- Predictable land use decision that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans. (Land Use Element, page 6).

*This zone change would allow for additional area for commercial uses in an area with a mix of agricultural, commercial and industrial uses. This is consistent with the Lockwood Community Plan and the neighborhood character.*

- Goal: New developments that sensitive to and compatible with the character of adjacent development. (Land Use Element Goal, page 6).

*This property is directly adjacent to the interchange of I-90 and I-94 (there is no direct access to the Interstate at this location) as well as agricultural uses. There is prevalent commercial truck traffic on North Frontage Road. The lots to the north and west are also zoned Heavy Industrial and the proposed zoning and use is compatible with the surrounding uses.*

2. *Is the new zoning designed to secure from fire and other danger?*

The subject property is currently served by the Lockwood Fire Department with mutual aid from the Billings Fire Department. The nearest fire station is located on Driftwood Lane 2 miles to the south. Billings Fire Station #1 is 5 miles to the west. Depending on the specific uses, the Lockwood Fire Department may require specific development characteristics to prevent structure fires.

3. *Will the new zoning facilitate the provision of transportation, water, sewerage, schools, parks and other public requirements?*

*Transportation:* The new zoning will increase traffic on North Frontage Road when the property is developed. The County will require any new development that adds 500 new vehicle trips per day to analyze the impact of the additional traffic. Without a specific use, the traffic impacts cannot be assessed in particular. The existing residential use will continue to use the existing drive approach.

*Water and Sewerage:* The property will not be served by public water and sewer systems so all water and sewer will need to be provided on site.

*Schools and Parks:* The proposed zoning should not impact the student population. Residential uses are not planned for the property.

*Fire and Police:* The subject property is serviced by the Lockwood Fire Department and the Yellowstone County Sheriff's Department. Fire protection will be evaluated at the time of a development plan.

4. *Will the new zoning promote health and general welfare?*

The new zoning will allow development of property that is near existing commercial and industrial uses to the west. Commercial development should not have a negative impact on the agricultural uses to the north, east and west. The proposed CI zoning will allow the

owner to use and market the property for commercial uses. The zoning will promote the health and general welfare of the area.

5. Will the new zoning provide adequate light and air?  
The proposed zoning would require minimum setbacks, maximum building heights and maximum lot coverage. These requirements should allow adequate light and air to reach the subject property and adjacent properties.
6. Will the new zoning effect motorized and non-motorized transportation?  
The proposed zoning itself will not generate more traffic on the adjacent streets. Pedestrian traffic in the area is limited due to the lack of sidewalks and trails. Agricultural traffic and commercial truck traffic uses North Frontage Road under current development patterns. There is a small component of residential traffic. The additional traffic generated if the property is developed should not affect any mode of transportation on the adjacent streets.
7. Will the new zoning be compatible with urban growth in the vicinity?  
The proposed zoning is compatible with nearby urban development. The proposed zoning and development is consistent with the area.
8. Does the new zoning consider the character of the district and the suitability of the property for particular uses?  
The subject property is in an area that is a mix of agricultural, residential and commercial. The property is suitable for CI uses and traffic will have access to the interstate 1-mile to the west from Johnson Lane. The property is suitable for the proposed uses.
9. Will the new zoning conserve the value of buildings?  
The new zoning will allow the development of new commercial uses adjacent to similarly zoned property. The existing home on the property will remain and continue to be occupied. The home will not become a nonconforming use although its marketability to future owners may be difficult. The CI zoning will not affect the value of the existing buildings on the site and should not have an effect on the surrounding properties.
10. Will the new zoning encourage the most appropriate use of land in Yellowstone County?  
The property is suitable for some of the uses allowed in the CI zoning district. This is the most appropriate use for the land. Certain uses that generate high traffic such as restaurants and retail uses will need to be evaluated for traffic impacts if proposed for this site.
11. Will the new zoning be as compatible as possible with adjacent zoning in the City of Billings?  
The proposed zoning is not close to the City of Billings and but is compatible with the typical urban development near arterial intersections.

Attachment A: Zoning Map  
Attachment B: Applicant Letter & Pre-application neighborhood meeting minutes  
Attachment C: Site Photographs

**Attachment A - Zone Change #650**  
**Zoning Map**



**Attachment B - Zone Change #650**  
Applicant Letter, pre-application neighborhood meeting minutes

COMMUNITY GOALS AND OBJECTIVES

The proposed development is for a clothing warehouse and distribution center on a portion of the real property subject to the zone change. It is anticipated that when the specific location and acreage is determined that the use of only that area would be under the controlled industrial. The remaining property, although zoned controlled industrial, would be actually used as agricultural land and an application for agricultural classification would be filed with the department of revenue. The construction of a warehouse could not be done under a agricultural zoning designation and would require a zone change to Controlled Industrial.

The development of such a warehouse would promote economic development within Yellowstone County and provide not only employment opportunities but increase the general tax base

The property to be developed is at the end of the North Frontage Road and contiguous to the I 90/ 194 interchange. All of the surrounding property to the North and West is already zoned Heavy Industrial. The property to the South and East is outside of the jurisdictional area for any type of zoning designation.(see attached zoning map) The property development on the North Frontage Road is already being utilized for the Peterbilt Dealership; two truck repair shops and a taxidermy business. Thus the development of the property with a warehouse would be compatible with the surrounding zoning and current use.

PRE-APPLICATION MEETING

February 7, 2014

Tolliver Law Firm, 1004 Division, Billings, Montana 59101

Roster of individuals present:

Ken Tolliver  
Cleve Lehman, Trustee of Lehman Trust  
Terry Seiffert, Land owner and Co Trustee of the Seiffert Trust

Synopsis of Meeting:

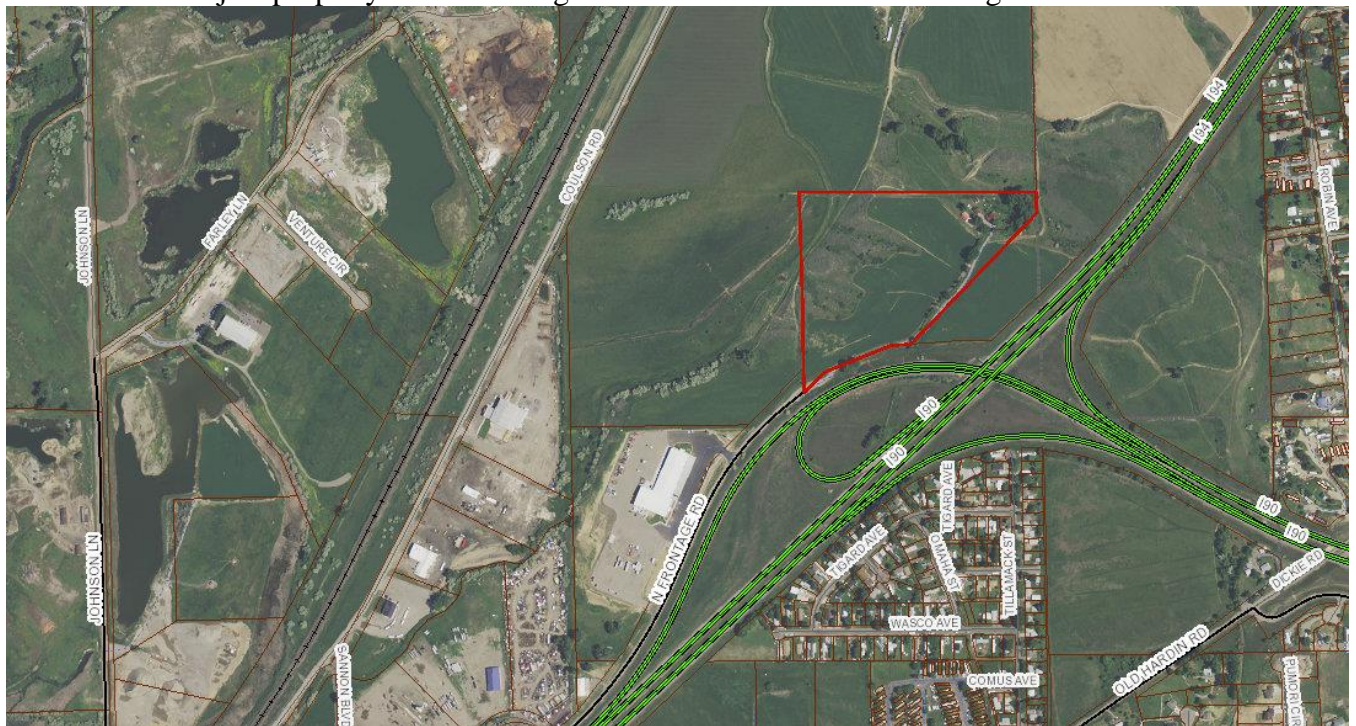
Ken Tolliver presented a summary of the potential development and the need for a zone change from Agricultural Open to Controlled Industrial. He further provided information on the use of a portion of the property which would be a clothing warehouse and distribution center and outlined the approximate area of the construction on ariel photos. Mr. Tolliver also outlined potential impact as well as potential benefits to the surrounding landowners. The benefits to the Lehman Trust consisted of having electricity and gas being installed on the North Frontage Road which would be contiguous to part the real property owned by the Lehman Trust and is currently zoned heavy industrial. Cleve Lehman, Trustee of the Lehman Trust, believed that such a development would be a benefit to the area and supported the development.



**Attachment C – Zone Change #650**  
Site Photographs



Subject property – view from gate entrance end of North Frontage Road



Aerial



**Attachment C – Zone Change #650, continued**  
Site Photographs



View of gated entrance on North Frontage Road



View north and west from North Frontage Road  
9 of 10

**Attachment C – Zone Change #650, continued**  
Site Photographs



View west on North Frontage Road